Supreme Court, U.S.
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JOSEPH F. SPANIOL, JR.
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No. 88-82

IN THE

Supreme Court of the United States

OCTOBER TERM, 1988

STARRETT CITY ASSOCIATES, STARRETT CITY, INC., and DELMAR MANAGEMENT COMPANY,

Petitioners,

—against—

UNITED STATES OF AMERICA,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

PETITIONERS' REPLY BRIEF

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REPLY BRIEF IN SUPPORT OF THE PETITION FOR A WRIT OF CERTIORARI

The government argues that this case is not appropriate for certiorari.

We disagree.

In our view, this is the best possible vehicle, presented at the best possible time, for determining a critical question of law.

As to the vehicle: the case comes up on an uncontested record, presenting no factual dispute to muddy the clear legal issue.

As to timeliness: The government does not deny that the proper construction of the Fair Housing Act is of critical and urgent importance to our society. The government argues only

that review now by this Court would be premature because only one circuit court of appeals has wrestled with the issue.

No doubt a conflict between circuits is a hallowed basis for certiorari, *see* Sup. Ct. Rule 17.1(a). But the writ is equally appropriate when "a federal court of appeals has decided an important question of federal law which has not been, but should be, settled by this Court." See Rule 17.1(c).[1]

This latter test could have been written to describe this case. If the decision below is not reviewed and reversed *now* by this Court, the accomplishments of Starrett City will be lost, it will become another urban ghetto, and the hopes of more than 17,000 people to live in an integrated community will be destroyed. And, as we pointed out in our main brief (pp. 11-12), the same misery will beset communities all over the country where integration maintenance has worked.

For all of these threatened people, review now will scarcely be premature.

The government is indifferent to these human costs of the delay it seeks. We beseech of this Court a greater sensitivity.

Dated: October 21, 1988

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1 The odds are poor that the Congress will soon offer further guidance. The Fair Housing Act was extensively amended in the session just concluded, Pub. L. No. 100-430, 134 Cong. Rec. S10562 (daily ed. Aug. 2, 1988), but nothing was done on the issue here presented. Indeed, Rep. Hyde introduced an amendment to prohibit integration maintenance, but the proposal failed, 265-139, 134 Cong. Rec. H4902 (daily ed. June 29, 1988).

Respectfully submitted,

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